

# ARTICLE 5

## Land Use and Development Permit Procedures

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## **CHAPTER 17.500 APPLICATIONS, PROCESSING, AND FEES**

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### **Sections:**

- 17.500.005 - Purpose
- 17.500.010 - Authority for Land Use and Zoning Decisions
- 17.500.015 - Application Preparation and Filing
- 17.500.020 - Application Fees
- 17.500.025 - Initial Application Review
- 17.500.030 - Environmental Assessment

### **17.500.005 Purpose**

This Chapter provides procedures and requirements for the preparation, filing, and initial processing of applications for the land use permits required by this Title.

### **17.500.010 Authority for Land Use and Zoning Decisions**

Table 5-1 identifies the City official or body responsible for reviewing and making decisions on each type of application, land use permit, and other approval required by this Title. The Director may defer action on permit applications and refer the item(s) to the Commission for a final decision.

**Table 5-1**  
**Review Authority**

<i>Type of Permit or Decision</i>	<i>Chapter/Section for Procedure</i>	<i>Role of Review Authority<sup>1</sup></i>		
		<i>Director</i>	<i>Commission</i>	<i>Council</i>
General Plan Amendments	Chapter 17.620	Not Applicable	Recommend	Decision
Interpretations	Chapter 17.120	Decision	Appeal	Appeal
Time Extensions	Section 17.510.030	Decision	Appeal	Appeal
Zoning Map Amendments	Chapter 17.620	Not Applicable	Recommend	Decision
Zoning Text Amendments	Chapter 17.620	Not Applicable	Recommend	Decision
Administrative Use Permits	Chapter 17.550	Decision	Appeal	Appeal
Administrative Adjustments	Chapter 17.555	Decision	Appeal	Appeal
Comprehensive Plans	Chapter 17.560	Not Applicable	Recommend	Decision
Conditional Use Permits	Chapter 17.550	Not Applicable	Decision	Appeal
Development Agreements	Chapter 17.580	Not Applicable	Recommend	Decision
Development Review – Level 1	Chapter 17.520	Decision	Appeal	Appeal
Development Review – Level 2	Chapter 17.520	Not Applicable	Decision	Appeal
Development Review – Level 3	Chapter 17.520	Not Applicable	Decision	Appeal
Lot Line Adjustment	WMC Chapter 16.08	Decision	Appeal	Appeal
Master Sign Plan	Section 17.330.045	Decision	Appeal	Appeal
Specific Plans	Chapter 17.560	Not Applicable	Recommend	Decision
Special Advertising Permit	Chapter 17.550	Not Applicable	Decision	Appeal
Special Provisions	Chapter 17.520	Not Applicable	Decision	Appeal
Temporary Event Permits	Chapter 17.540	Decision	Appeal	Appeal
Temporary Use Permits	Chapter 17.540	Decision	Appeal	Appeal
Tentative Parcel Map	WMC Chapter 16.04	Not Applicable	Decision	Appeal
Tentative Tract Map	WMC Chapter 16.04	Not Applicable	Decision	Appeal
Variances	Chapter 17.555	Not Applicable	Decision	Appeal

<sup>1</sup> "Recommend" means that the review authority makes a recommendation to a higher decision-making body; "Decision" means that the review authority makes the final decision on the matter; "Appeal" means that the review authority may consider and decide upon appeals to the decision of an earlier decision-making body, in compliance with Chapter 17.640, *Appeals*.

### **17.500.015 Application Preparation and Filing**

The preparation and filing of applications for land use permits, entitlements, amendments (e.g., General Plan, Zoning Map, and Zoning Code), and other matters pertaining to this Title shall comply with the following requirements.

#### **A. Preliminary Project Review (optional).**

1. **Purpose.** The purpose of the preliminary project review is to inform the applicant of City requirements as they apply to the proposed development project, review the procedures outlined in this Title, explore possible alternatives or modifications, and identify necessary technical studies and required information relating to future environmental review.
2. **Applicability.** A prospective applicant or agent may submit a preliminary project review request with the Division before formal submittal of a project application.
3. **Procedure.** Upon submittal of a preliminary project review request, the item shall be

scheduled for a Project Review Committee (PRC) meeting in accordance with the PRC meeting schedule established by the Division. The applicant shall be invited to attend the PRC meeting where opportunities for discussion about the project and exchange of information on potential issues between City staff and the applicant take place. Neither the preliminary project review nor the provision of information and/or pertinent policies shall be construed as a recommendation or an official determination for approval or disapproval of the application or project.

- B. Application Contents.** Applications shall be filed with the Division on the appropriate City forms, together with all necessary fees and/or deposits, exhibits, maps, materials, plans, reports, and other information specified in the application form and any applicable Division handout, and any additional information required by the Director in order to describe clearly and accurately the proposed project, its potential environmental impact, and its effect on existing improvements, and to conduct a thorough review of the proposed project.
- C. Eligibility for Filing.** All zoning approval and other applications required by this Title shall be filed with the Division. Applications may be made by:
  1. The owner(s) of the subject property.
  2. Any agent or representative, with the written consent of the property owner(s).
- D. Filing Date.** The filing date of any application shall be the date on which the application along with the required application processing fees is submitted to the Division.

### **17.500.020 Application Fees**

- A. Filing Fees Required.** The Council shall, by resolution, adopt a schedule of fees for permits, entitlements, amendments, and other matters pertaining to this Title (hereafter referred to as the City Council Fee Resolution). The City Council Fee Resolution may be obtained from the Division and may be changed or modified only by resolution of the Council. The City's processing fees are cumulative. For example, if an application for a Development Review also requires a Variance, both fees will be charged. Also, specified projects may be subject to a deposit and an hourly rate, rather than a flat application fee(s), in compliance with the City Council Fee Resolution. Processing shall not commence on an application until all required fees/deposits have been paid. Without the application fee(s), or deposit if applicable, the application will not be deemed complete.
- B. Refunds and Withdrawals.**
  1. Recognizing that filing fees are used to cover City costs of public hearings, mailing, posting, transcripts, and staff time involved in processing applications, no refunds shall be issued due to a disapproval of an application.
  2. In the case of an application withdrawal, the Director may authorize a partial refund based upon the costs incurred to-date and determination of the status of the application at the time of withdrawal.

### **17.500.025 Initial Application Review**

Each application filed with the Division shall be initially processed as follows:

- A. Completeness Review.** The Division shall review an application for completeness before it is accepted as being complete to begin processing. The Division will consider an application complete when:
1. All necessary application forms, documentation, exhibits, materials, maps, plans, reports, and other information specified in the application form, any applicable Division handout, and any additional information required by the Director have been provided and accepted as adequate.
  2. All necessary fees and deposits have been paid and accepted.
- B. Notification of Applicant.<sup>1</sup>** The applicant shall receive written notification within 30 days of submittal that the application is complete and has been accepted for processing, or that the application is incomplete and that additional information, specified in the written notification, must be provided.
- C. Appeal by Applicant.** If the application together with the submitted materials is again found incomplete following subsequent submittal of requested materials, the applicant can appeal that decision in writing to the Planning Commission in accordance with Section 65943 of Government Code.
- D. Expiration of Application.** If a pending application is not deemed complete within 6 months after the first filing with the Division, the application shall expire and be deemed withdrawn and any remaining deposit amount shall be refunded, subject to administrative processing fees. If an application, deemed complete, is delayed as a result of the applicant(s)/ and/or property owner(s) conduct, then the application shall expire and be deemed withdrawn, 6 months from the date on which the application was deemed complete.
- E. Extension of Application.** The Director may grant one 6 month extension upon written request of the applicant. After expiration of the application and extension, if granted, a new application, including fees, plans, exhibits, and other materials will be required to commence processing of a new project application on the same property.
- F. Additional Information.** After the application has been accepted as complete, the Director may require the applicant to submit additional information needed for the environmental review of the project in compliance with Section 17.500.030, *Environmental Assessment*.
- G. Referral of Application.** At the discretion of the Director, or where otherwise required by this Title or state, or federal law, an application filed in compliance with this Title may be referred to any public agency that may be affected by or have an interest in the proposed land use activity.

### 17.500.030 Environmental Assessment

After acceptance of a complete application, the project shall be reviewed in compliance with the California Environmental Quality Act (CEQA), to determine whether the proposed project is exempt from the requirements of CEQA or is not a project as defined by CEQA, whether a negative declaration or a mitigated negative declaration may be issued, or whether an environmental impact report shall be required. The determination shall be made within 30 days of the date the application was deemed complete.

<sup>1</sup> Time limitation does not apply to projects that involve legislative acts, such as zone map and general plan amendments.



## CHAPTER 17.510 PERMIT IMPLEMENTATION, TIME LIMITS, AND EXTENSIONS

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### Sections:

- 17.510.005 - Purpose
- 17.510.010 - Conformance to Plans
- 17.510.015 - Effective Date of Permits or Entitlements
- 17.510.020 - Applications Deemed Approved
- 17.510.025 - Performance Guarantees
- 17.510.030 - Time Limits and Extensions
- 17.510.035 - Changes to an Approved Project
- 17.510.040 - Resubmittals
- 17.510.045 - Covenants

### 17.510.005 Purpose

This Chapter provides requirements for the implementation or exercising of the permits or entitlements specified by this Title, including time limits and procedures for granting extensions of time and changes to an approved project.

### 17.510.010 Conformance to Plans

- A. **Compliance.** All work for which project drawings and plans have received approval by the Director, Commission, or Council shall be performed in substantial compliance with the approved drawings and plans, any statements (written or oral) made in support of the application, any conditions of approval imposed by the review authority, and any minor changes approved by the Director.
- B. **Changes.** Any minor changes to or deviations from the approved drawings and plans that do not change the intent of the original approval may be approved by the Director. In the case of a discretionary permit, the original review authority shall review and approve any major changes, in compliance with Section 17.510.035, *Changes to an Approved Project*.

### 17.510.015 Effective Date of Permits or Entitlements

- A. **Discretionary Decisions by the Director or Commission.** Any Administrative Use Permit, Conditional Use Permit, Administrative Adjustments, Variance, or Development Review shall become effective on the date following the end of the appeal period following the date the decision is rendered by the appropriate review authority, provided that no appeal of the review authority's action has been filed in compliance with Chapter 17.640, *Appeals*. A decision shall be considered as follows:
  - 1. ***Decisions made following a public hearing.*** When a resolution is adopted without changes or with changes that are read into the record.
  - 2. ***Decisions made by the Director.*** When a Notice of Decision is signed by the Director.

- B. Ministerial Permits.** Ministerial staff decisions shall be effective immediately upon being stamped and signed by staff.
- C. Decisions by Council.** Any Comprehensive Plan, Development Agreement, Specific Plan, or amendment to the Zoning Map and this Title shall become effective on the 30th day following the date the decision is rendered by the Council. A General Plan amendment shall become effective immediately upon adoption of a resolution by the Council.

### **17.510.020 Applications Deemed Approved**

A permit application deemed approved shall be subject to all applicable provisions of this Title, which shall be satisfied by the applicant before a building permit is issued or a land use not requiring a building permit is established.

### **17.510.025 Performance Guarantees**

A permit applicant may be required by conditions of approval or by action of the Director to provide adequate security to guarantee the faithful performance of any or all conditions of approval imposed by the review authority. The Director, in concert with the Building Official, shall be responsible for setting the amount of the required security at a level that is reasonable in relation to the conditions being guaranteed.

### **17.510.030 Time Limits and Extensions**

- A. Time Limits.** To ensure continued compliance with the provisions of this Chapter, each approved permit or entitlement shall expire one year from the date of approval if the use has not been exercised, unless otherwise specified in the permit or entitlement. A time extension may be granted in compliance with Subsection 17.510.030.C., *Project Phasing*, if a written request is submitted by the applicant and received by the Division prior to expiration of the approval.

If a permit or entitlement has not been exercised within the established time frame and a time extension is not granted the permit or entitlement shall be deemed void.

- B. Permit Implementation - Exercising the Permit or Entitlement.** The zoning approval shall not be deemed exercised until the permittee has submitted plans to the Building Division for plan check. If no construction is required, the zoning approval shall be deemed exercised when the permittee has actually commenced the allowed use on the subject site in compliance with the conditions of approval.
- C. Project Phasing.** If a project is to be developed in approved phases, each subsequent phase shall be exercised within 12 months from the date that the previous phase was exercised, unless otherwise specified in the zoning approval, or the zoning approval shall expire and be deemed void. If the project also involves the approval of a Tentative Map, the phasing shall be consistent with the Tentative Map and the zoning approval shall be exercised before the expiration of the Tentative Map, or the zoning approval shall expire and be deemed void.
- D. Extensions of Time.**
  - 1. The applicant shall file a written request for an extension of time with the Division, accompanied by the required filing fee, prior to expiration of the approval.

2. The burden of proof is on the applicant to establish, with substantial evidence, that the zoning approval should be extended. Upon determination that the applicant has made a good faith effort to establish the permit, the Director may extend the time to establish an approved permit for up to an additional 12 months, unless the conditions of approval authorize longer extensions. Whenever an extension is requested after approval of a first extension, the Director shall notify the Commission and Council of such request prior to acting upon it.

### **17.510.035 Changes to an Approved Project**

An approved development or new land use shall be established only as specified by the approved land use permit, and subject to any conditions of approval. An applicant may request, in writing, to amend the approved permit, and shall furnish appropriate supporting materials and an explanation of the reasons for the request.

- A. Minor changes may be approved, modified, or denied by the Director. Major changes shall be approved, modified, or denied by the original review authority.
- B. The Director shall determine whether a proposed change is major or minor. The determination that the change is major depends on whether the proposal may result in:
  1. Significant impacts to the surrounding neighborhood.
  2. Significant environmental impacts.
  3. A change to the approved use or a significant change to project design.
  4. A change to the basis on which the environmental determination for the project was made.
  5. A change to the basis on which the review authority made the findings for approval of the project.

A request for a major change shall be processed in the same manner as the original permit or entitlement.

### **17.510.040 Resubmittals**

For a period of one year following the approval, disapproval, or revocation/modification of a discretionary land use permit or entitlement, no application for the same or substantially similar discretionary permit or entitlement for the same site shall be filed. The Director shall determine whether the new application is for a discretionary land use permit or entitlement that is the same or substantially similar to the previously approved or disapproved permit or entitlement.

### **17.510.045 Covenants**

When necessary to achieve the land use goals of the City, the City may require a property owner(s) to execute and record a Covenant in favor of the City. The Covenant may be imposed as a condition of approval by the Director, Commission, or Council. The applicable processing fees shall be specified in the City Council Fee Resolution, which may be obtained from the Division.

Permit Implementation, Time Limits, and Extensions

17.510

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## CHAPTER 17.520 DEVELOPMENT REVIEW

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### Sections:

- 17.520.005 - Purpose
- 17.520.010 - Applicability
- 17.520.015 - Application Filing, Processing, and Review
- 17.520.020 - Findings and Decision
- 17.520.025 - Conditions of Approval
- 17.520.030 - Post Approval Procedures

### 17.520.005 Purpose

This Chapter provides procedures and standards for the comprehensive review of proposed development projects to ensure compliance with the required standards, design guidelines, and ordinances of the City; minimize potential adverse effects on surrounding properties and the environment; and ensure quality development and protect the integrity and character of the residential, commercial and public areas of the City. The specific purposes of this Chapter are:

- A. Establish quality development that focuses on community design principles that result in creative and imaginative solutions.
- B. Ensure that each new development is designed to best comply with the purpose and intent of the zoning district in which the property is located, in compliance with all applicable performance standards, design standards, and design guidelines adopted by the City, and does not have an adverse effect on the aesthetic, architectural, health, and safety related qualities of adjoining properties or upon the City in general.
- C. Ensure access to each property and a circulation pattern that is safe and convenient for both pedestrians and vehicles.
- D. Ensure the orderly and harmonious appearance of structures with associated site improvements (e.g., landscaping, parking areas, signs, etc.).
- E. Implement and promote the goals and policies of the General Plan.
- F. Eliminate visual blight.
- G. Prevent incompatible design and development types.

### 17.520.010 Applicability

- A. **Subject to Director's Review.** Development Review (Level I) shall be required for:
  - 1. Minor additions<sup>2</sup> (less than 3,000 square feet in area) to an existing commercial building(s) or less than 5,000 square feet to an industrial building(s).

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<sup>2</sup> The size for (1) through (4) is cumulative. For example, a project involving two 2,000 square foot commercial buildings will be subject to Level II Development Review because the total is 4,000 square feet.

2. New 3,000-square-foot or smaller commercial building(s).
3. New 5,000-square-foot or smaller industrial building(s).
4. Exterior design modifications including change in color or materials on commercial or office buildings 7,500 square feet or smaller, and on buildings over 7,500 square feet when less than 30 percent of the façade is affected.
5. Exterior design modifications including change in color or materials on industrial buildings.
6. Two-family dwelling unit, duplex or two detached units.
7. Temporary storage containers.
8. Six-foot high fences for multiple-family units in the R2 through R5 zones.
9. Master Sign Plan, where such plan does not require a building permit but is required by either Section 17.33.045 and/or a condition of approval.
10. Other authorization required by the WMC or this Title for any new use or change of use. Where no other authorization is required, Level I Development Review shall be obtained from the Division before the commencement of any land use activity.

**B. Subject to Commission Review, Nonpublic Hearing.** Level II Development Review shall be required for:

1. **Residential.** The following residential projects are subject to Level I Development Review:
  - a. The construction of a new residential project of 3 to 6 units or the addition to an existing residential project, where the new units added to the existing units result in a total of 3 to 6 units.
2. **Nonresidential.** The following nonresidential projects are subject to Level I Development Review:
  - a. Construction of a new commercial or office building(s) over 3,000 gross square feet of floor area but less than 10,000 gross square feet, or the addition of over 3,000 gross square feet but less than 10,000 gross square feet to an existing commercial or office building(s) within a one-year period.<sup>3</sup>
  - b. Construction of a new industrial building over 5,000 gross square feet but less than 10,000 gross square feet.
  - c. Exterior design modifications, including change in color or materials, to a commercial or office building(s) over 7,500 gross square feet in floor area if the extent of the design modification or change in color or materials covers 30 percent

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<sup>3</sup> The size (square foot) referenced in (a) through (c) is cumulative. For example, a commercial project involving two structures one 4,000 square feet and the other 7,000 square feet would subject to Level III Development Review because the total is 11,000 square feet.

or more of the building façade.

- d. Wireless communication facilities which are co-located with one or more existing wireless communication facilities and are fully screened.
  - e. Wireless communication facilities which meet the definition and design requirements of a “stealth facility and are “co-located on a public utility or city-owned pole, traffic or street light standard or other similar publicly owned structure, except when such structure is a building.
- 3. ***Intensification.*** An intensification of the use as determined by the Director.
  - 4. ***Move-on.*** Moving a building or structure onto a site.
  - 5. ***Special Provisions*** The following special provisions pertaining to signs are subject to Level 1 Development Review:<sup>4</sup>
    - a. Automobile Dealership, New and Used as described in Section 17.330.050.A.
    - b. Apartment Complexes, 16 Units or More as described in Section 17.330.050.B.

**C. Subject to Commission Review, Public Hearing.** Development Review (Level II) shall be required for:

- 1. ***Residential.*** The construction of a new residential project of 7 or more units, the addition to an existing residential project that would result in 7 or more units, or demolition of historic structures.
- 2. ***Nonresidential.***
  - a. Construction of a new building(s) totaling 10,000 gross square feet of floor area or more or the addition of 10,000 gross square feet or more to an existing building(s) within a one-year period<sup>5</sup>
  - b. Wireless communication facilities not screened or designed as stealth facilities
  - c. Demolition of historic structures

**D. Exempt from Review.** The following projects are exempt from Development Review:

- 1. Any construction, addition, or alteration to an individual single-family or two-family dwelling or appurtenant structure, or to two single-family dwellings on a single parcel.
- 2. Those activities and structures identified in Section 17.110.010, *Exemptions from Land Use Permit Requirements*.

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<sup>4</sup> Special Provisions are not subject to the findings listed in Section 17.520.020 (Level I Development Review) but must be found to be consistent with the purpose of Title 17, as stated in Section 17.100.010 (Purpose) and must be found to meet the criteria established in Section 17.520.020.A (Findings Required for Level I Development Review).

<sup>5</sup> The size is cumulative.

**17.520.015 Application Filing, Processing, and Review**

- A. Filing.** An application for a Development Review shall be completed, filed, and processed in compliance with Chapter 17.500, *Applications, Processing, and Fees*. The application package shall include all information specified in the application, any applicable Division handout, and any additional information required by the Director in order to conduct a thorough review of the proposed project. It is the responsibility of the applicant to establish evidence in support of the findings required by Section 17.520.020, *Findings and Decision*.
- B. Notice, Hearings, and Review.** Notice, hearings, and review regarding an application for a Development Review shall be provided in compliance with Chapter 17.630, *Public Hearings and Administrative Review*.
- C. Concurrent Review:** When a project requires other land use permits such as a Variance, Conditional Use Permit, subdivision, or zone change application, the Development Review shall occur concurrently with the review of the other land use permits, unless the applicant requests otherwise.
- D. Project Review Procedures.** In conducting a Development Review for a particular project, the Director or Commission shall consider the location, design, site plan configuration, and the overall effect of the proposed project upon surrounding properties and the City in general. A Development Review shall be conducted by comparing the proposed project to applicable General Plan policies, any applicable specific plan, adopted development and design standards, design guidelines, and other applicable City ordinances.

**17.520.020 Findings and Decision**

Following a review or public hearing, the review authority shall record the decision in writing with the findings on which the decision is based. The Development Review may be approved, with or without conditions, only after first making all of the following findings, and any additional findings required for the approval of specific land uses in Article 4, *Standards for Specific Land Uses and Accessory Uses*.

**A. Findings Required for Level I Development Review**

- 1. The proposed development will not be detrimental to the public health, safety and welfare; and
- 2. The proposed development is in full compliance with this Title, including with the design guidelines manual; and
- 3. The proposed development will not adversely affect the general plan and any applicable specific plan and it is consistent with the general plan.

**B. Findings Required for Residential Development Level II and III Development Review**

- 1. The proposed development will not be detrimental to the public health, safety and welfare; and
- 2. The proposed development is in full compliance with this Title, including with the design guidelines manual; and



3. The proposed development will not adversely affect the general plan and any applicable specific plan and it is consistent with the general plan.
4. The existing or proposed public facilities necessary to accommodate the proposed project (e.g., fire protection devices, parkways, public utilities, sewers, water, sidewalks, storm drains, street lights, traffic control devices, and the width and pavement of adjoining streets and alleys) will be available to serve the subject site

**C. *Findings Required for Commercial and Industrial Development (Nonresidential) Levels II and III Development Review***

1. The general layout of the project, including orientation and location of buildings, vehicular and pedestrian access and circulation, parking and loading facilities, building setbacks and heights, and other improvements on the site is consistent with the purpose and intent of this Chapter, the requirements of the zoning district in which the site is located, and all applicable development standards and design guidelines.
2. The architectural design of the structure(s) and their materials and colors are compatible with the scale and character of surrounding development, so long as the surrounding development is high quality and is consistent with the purpose and intent of this Chapter, the requirements of the zoning district in which the site is located, and all applicable development standards and design guidelines.
3. The landscaping, including the location, type, size, color, texture, and coverage of plant materials; provisions for irrigation; and protection of landscape elements, has been designed to create visual relief, complement structures, and provide an attractive environment and is consistent with the purpose and intent of this Chapter, the requirements of the zoning district in which the site is located, and all applicable development standards, and design guidelines.
4. The design and layout of the proposed project will not interfere with the use and enjoyment of neighboring existing or future development; will not result in vehicular or pedestrian hazards; will provide efficient traffic flow; will assure that neighboring uses and structures will be protected against noise, vibration, and other offensive, objectionable conditions; and will be in the best interest of the public health, safety, and general welfare.
5. The existing or proposed public facilities necessary to accommodate the proposed project (e.g., fire protection devices, parkways, public utilities, sewers, water, sidewalks, storm drains, street lights, traffic control devices, and the width and pavement of adjoining streets and alleys) will be available to serve the subject site.
6. The proposed project is consistent with the General Plan and any applicable specific plan.

**17.520.025 Conditions of Approval**

In approving a Development Review Permit, the review authority may impose reasonable and necessary specific design, locational, and operational conditions to ensure that the approval will be in compliance with the findings required by Section 17.520.020, *Findings and Decision*.

Conditions may relate to both on- and off-site improvements that are reasonable and necessary to mitigate project-related impacts, and to carry out the purpose and requirements of the respective zoning district and all applicable development standards and design guidelines.

### **17.520.030 Post approval Procedures**

Procedures relating to appeals, notices, revocations, and modifications as identified in Article 6, *Zoning Code Administration*, in addition to those identified in Chapter 17.510, *Permit Implementation, Time Limits, and Extensions*, shall apply following the approval of a Development Review.

## CHAPTER 17.530 HOME-BASED BUSINESS PERMITS

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### Sections:

- 17.530.005 - Purpose
- 17.530.010 - Home-Based Business Permit Required
- 17.530.015 - Permit Procedures
- 17.530.020 - Term of Permit
- 17.530.025 - Appeal
- 17.530.030 - Business License
- 17.530.035 - Inspections
- 17.530.040 - Revocation/Modification

### 17.530.005 Purpose

The purpose of this section is to provide permit procedures for establishing a home-based occupation for residents in the City.

### 17.530.010 Home-Based Business Permit Required

The establishment of a home-based business, as defined in Article 7, within any residential dwelling unit requires the issuance of a home business permit. A business license will not be issued for a business in a residential dwelling without the issuance of the home business permit.

### 17.530.015 Permit Procedures

Based on the nature of the business activities and potential impacts to the surrounding properties, the permitted home-based businesses are divided into 2 levels: home-based business permit level 1 (administrative review); and home-based business permit level two (planning commission review). Refer to Section 17.400.075.C for home-based businesses permitted in a dwelling unit. The permitted businesses and permit issuance procedures are established as follows:

#### A. Home-Based Business Permit Level 1

1. **Application.** An application for a home-based business permit for level 1 review shall be submitted to the Division on forms supplied by the Division. The applicant shall provide the information required by the application and any additional information requested by the Division to assist in the review of the permit request.
2. **Permit Issuance.** Upon 10 days of receipt of a completed application, the Director or her/his designee may approve any home-based business that is permitted by Section 17.400.075.C and meets all the operational standards in Section 17.400.075.C.1.b. The Director or her/his designee shall deny any home business that is prohibited by Section 17.400.075.B.

#### B. Home-Based Business Permit Level 2

Prior to granting a home-based business permit for a home business, the Commission shall make the required findings in Section 17.530.015.C. The Commission may impose any conditions it

determines to be necessary and appropriate to ensure the public health, safety, and welfare, and that are consistent with the general intent and purpose of the city's land use regulations. Unless specifically authorized by the Commission to the contrary, any home-based business permit granted under this Section shall operate in compliance with the standards in Section 17.400.075.C.1.b.

### **C. Home-Based Business Permit Level Two Findings**

The Commission shall make the following findings prior to the approval of a level 2 home-based business permit. Failure to make any of these findings is grounds for denial of the permit:

1. The home-based business will not generate the following impacts beyond what is normally associated with a residential zone:
  - a. a significant amount of pedestrian or vehicular traffic
  - b. a significant amount of noise or vibration
  - c. an adverse visual impact to the neighborhood
  - d. a significant negative impact on air quality
  - e. significant harm to public safety
  - f. a significant amount of pollution
2. The proposed business will not impair the use, character, or integrity of the district in which the use is proposed.
3. The proposed business will not diminish the value of adjacent properties.
4. The proposed business is consistent with the general intent and purpose of the home business and land use regulations.

### **17.530.020 Term of Permit**

A home-based business permit shall remain valid until it is revoked pursuant to Chapter 17.660, *Revocations and Modifications*, or until termination of the residence by the original permittee. A home-based business permit shall not be transferred, assigned, or used by any other person other than the original permittee, and will not be valid at any location other than the address designated on the permit.

### **17.530.025 Appeal**

- A. **Level 1.** The applicant may appeal the decision of the Director to the Commission within 15 calendar days of the Director's decision. The appeal shall be submitted in writing to the Commission secretary along with the filing fee, as adopted by Council resolution. The applicant may appeal the decision of the Commission to the Council within 15 calendar days of the Commission's decision. The appeal shall be submitted in writing and shall be filed in duplicate with the secretary of the Commission, along with the filing fee, as adopted by Council resolution.

- B. Level 2.** The applicant and/or any interested party may appeal the decision of the Commission pursuant to the provisions established in Chapter 17.640, *Appeals*.

### **17.530.030 Business license**

Upon being granted a level 1 or level 2 home-based business permit and following the prescribed appeal period, the applicant shall obtain from the City a valid business license. No business activity shall take place at the dwelling unit until the business license has been issued.

### **17.530.035 Inspections**

An inspection may be required as a condition of approval, and from time to time, to ensure compliance of provisions of this Chapter. Prior to commencing any inspection, the authorized inspector shall either obtain the consent of the owner or occupant of the dwelling unit, or the inspector shall obtain an administrative warrant or criminal search warrant.

### **17.530.040 Revocation/Modification**

The Commission and/or Council may hold a public hearing to revoke or modify any home-based business permit on any one of the following grounds:

- A.** That such approval was obtained by fraud.
- B.** That the home-based business permit has been exercised contrary to the terms or conditions of such approval, or in violation of any statute, ordinance, law, or regulation for which the approval was granted.
- C.** That the home-based business permit for which the approval was granted has been so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.
- D.** A decision to revoke a home business permit shall also revoke the business license(s) associated with that permit.

Home-Based Business Permits

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## CHAPTER 17.540 TEMPORARY USE, TEMPORARY EVENT

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### Sections:

- 17.540.005 - Purpose
- 17.540.010 - Applicability
- 17.540.015 - Allowed Temporary Uses and Events
- 17.540.020 - Review Authority
- 17.540.025 - Application Filing and Processing
- 17.540.030 - Conditions of Approval
- 17.540.035 - Development and Operating Standards
- 17.540.040 - Post Approval Procedures
- 17.540.045 - Garage Sale Permits
- 17.540.050 - Grand Openings

### 17.540.005 Purpose

This Chapter provides a process for reviewing proposed temporary uses and temporary events to ensure that basic health, safety, and community welfare standards are met, with the minimum necessary conditions or limitations consistent with the temporary nature of the activity. A Temporary Use Permit or Temporary Event Permit allows short-term activities that might not meet the normal development or use standards of the applicable zoning district, but may be considered acceptable because of their temporary nature. These activities are regulated to avoid incompatibility between the proposed activity and surrounding areas. For special event permits, see Title 9, Chapter 9.61, of the WMC.

### 17.540.010 Applicability

- A. **Permit Requirement.** A Temporary Use or Temporary Event Permit approved by the applicable review authority shall be required for all uses identified in Section 17.540.015, and shall be issued before the commencement of the activity.
- B. **Exempt Activities.** The following temporary uses and events are exempt from the requirement for a Temporary Use or Temporary Event Permit. Uses other than the following shall comply with Section 17.540.015.
  - 1. On-site contractor's construction yards, in conjunction with an approved construction project. The activity shall cease upon completion of the construction project or the expiration of the companion building permit authorizing the construction project.
  - 2. Events that occur in meeting halls, theaters, or other permanent indoor or outdoor public assembly facilities subject to all applicable regulations of the WMC.
  - 3. Promotional activities related to the primary product lines of a retail business, and similar activities (e.g., book readings and signings at book stores, opening receptions at art galleries).
  - 4. Emergency public health and safety activities.

**17.540.015 Allowed Temporary Uses and Events**

The following temporary uses and events may be allowed, subject to the issuance of a Temporary Use or Temporary Event Permit by the applicable review authority. Uses other than the following shall comply with the use and development regulations and permit requirements that otherwise apply to the property, except uses that are exempt from the provisions of this Chapter in compliance with Section 17.540.010, *Applicability*.

**A. Allowed Temporary Uses.**

1. **Construction yards.** Off-site contractor construction yards including the storage of building materials, in conjunction with an approved construction project. The permit shall expire upon completion of the construction project or the expiration of the companion building permit authorizing the construction project.
2. **Grand opening.** A permit to identify the opening of a new business may be issued by the Director, subject to the provisions of Section 17.540.050, *Grand Openings*.
3. **Residence.** A mobile home as a temporary residence of the property owner when a valid building permit for a new single-family dwelling is in force. In addition, a mobile home may be used as a temporary residence of the property owner when a valid building permit has been issued for the remodel of a single family dwelling and the Building Official has determined that the extent of such remodel would prevent the safe occupancy of the dwelling. The Temporary Use Permit may be approved for up to 1 year, or upon expiration of the building permit, whichever occurs first.
4. **Seasonal sales lots.** Seasonal sales activities (e.g., Halloween, Christmas or lunar new year) including temporary residence or security trailers, on nonresidential properties. The sales activity may be approved for a maximum of 30 days or a length of time determined to be appropriate by the applicable review authority.
5. **Storage.** Enclosed temporary storage, unrelated to a construction project. The use may be approved for a maximum of 90 days. See Section 17.400.160, *Temporary Storage Containers*, for specific standards.
6. **Temporary real estate sales offices.** A temporary real estate sales office may be established within the area of an approved development project, solely for the first sale of homes. A permit for a temporary real estate office may be approved for a maximum of 1 year.
7. **Temporary structures.** A temporary classroom, office, or similar structure, including manufactured or mobile units, may be approved for a maximum time period of 18 months from the date of approval, as an accessory use or as the first phase of a development project.
8. **Temporary work trailers.** A trailer or mobile home as a temporary work site for employees of a business may be allowed for up to 1 year:
  - a. During construction or remodeling of a permanent commercial or manufacturing structure, when a valid building permit is in force; or
  - b. Upon demonstration by the applicant that this temporary work site is a short-term necessity while a permanent work site is being obtained.



9. ***Similar temporary uses.*** Similar temporary uses that, in the opinion of the Director, are compatible with the zoning district and surrounding land uses.

**B. Allowed Temporary Events.**

1. ***Outdoor events.*** The following outdoor events may be allowed:
- a. ***Display or exhibit events.*** Outdoor display or exhibit events, including art, cultural, and educational displays and arts and crafts exhibits on nonresidential properties, when not a part of the established primary use of the site, for up to 12 days per calendar year.
  - b. ***Outdoor sales events.*** Temporary events related to an existing business with temporary outdoor sale of merchandise in any commercial zoning district, in compliance with the following provisions:
    - i. There shall be no more than 6 sales in any calendar year.
    - ii. Each sale shall be limited to 3 consecutive days.
    - iii. The merchandise displayed shall be that customarily sold at the business premises.
    - iv. The display of merchandise shall occur within 10 feet of the main structure and not be on any portion of the public right-of-way
    - v. The site is used for a permanently established business holding a valid business tax certificate as required.
  - c. ***Garden and patio merchandise.*** A host retail businesses with greater than 50,000 square feet of gross floor area may conduct outdoor sales of garden and patio merchandise in conjunction with and incidental to the host retail business if garden and patio merchandise sales are stocked and sold as standard merchandise in the regular course and scope of the host retail business operating at the site. Such sales shall be limited to the display and/or sale of garden and patio merchandise such as live and cut plants, or trees; soil or soil amendments; garden implements or tools; and patio furniture and patio-related merchandise.
    - i. Short term: For sales of garden and patio merchandise for more than 3 days but less than 60 days, a host retail business must obtain a Level I Development Review. A host retail business may obtain a maximum of 2 permits a year with a Level I Development Review approval.
    - ii. Long term: For sales of garden and patio merchandise for more than 60 days, a host retail business must obtain Commission approval for a Development Review at a nonpublic hearing. The Commission may approve a long-term permit for up to 3 years. The host retail business may re-apply for renewal of the permit upon expiration of the then-current permit. All renewals hereunder shall be subject to Commission approval at a nonpublic hearing. There shall be no more than one long-term sale permit issued for any shopping center

2. ***Similar events.*** Similar temporary events, either indoor or outdoor, that, in the opinion of the Director, are compatible with the zoning district and surrounding land uses, for up to 12 days per calendar year or as determined appropriate by the applicable review authority.

### **17.540.020 Review Authority**

**Director Review.** The Director shall be responsible for the review and approval of all permits for temporary uses, and events and the extension of these permits.

### **17.540.025 Application Filing and Processing**

An application for a Temporary Use or Temporary Event Permit shall be filed with the Division and processed as follows.

- A. **Application Contents.** The application shall be made on forms furnished by the Division and shall be accompanied by the information identified in any applicable City handouts and permit applications.
- B. **Time for Filing.** A temporary use or event permit application shall be filed as follows:
  1. ***Temporary use permit.*** A temporary use permit application shall be filed at least 14 days in advance of the proposed commencement of the use.
  2. ***Temporary event permit.*** A temporary event permit application shall be filed at least 14 days in advance of a proposed event.
  3. ***Additional permits required.*** Temporary uses and temporary events may be subject to additional permits and other city approvals, licenses, and inspections required by applicable laws or regulations.

### **17.540.030 Conditions of Approval**

In approving a Temporary Use or Temporary Event Permit, the review authority may impose reasonable and necessary specific design, locational, and operational conditions to ensure that:

- A. The use or event is limited to a duration that is no more than the maximum allowed duration, as determined appropriate by the review authority.
- B. The site is physically adequate for the type, density, and intensity of use being proposed, including provision of services (e.g., sanitation and water), public access, and the absence of physical constraints.
- C. The design, location, size, and operating characteristics of the proposed use are compatible with the existing land uses on-site and in the vicinity of the subject property.
- D. The temporary use or activity will be removed and the site restored as necessary to ensure that no changes to the site will limit the range of possible future land uses otherwise allowed by this Title.

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- E.** Adequate temporary parking will be provided in order to accommodate the vehicle traffic generated by the temporary use or event, either on-site or at alternate locations acceptable to the review authority.
- F.** The use or event will comply with all applicable provisions of local, state, and federal laws or regulations.
- G.** Any other pertinent factors affecting the operation of the temporary use or event will be addressed, including the following, to ensure the orderly and efficient operation of the proposed use or event, in compliance with the intent and purpose of this Chapter.
  - 1. Conditions may require the provision of:
    - a. Sanitary and medical facilities.
    - i. Security and safety measures.
    - ii. Solid waste collection and disposal.
  - 2. Conditions may regulate:
    - a. Nuisance factors, including the prevention of glare or direct illumination of adjacent properties, dirt, dust, gases, heat, noise, odors, smoke, or vibrations.
    - b. Operating hours and days, including limitation of the duration of the use or event to a shorter time period than that requested.
    - c. Temporary signs.
    - d. Temporary structures and facilities, including height, placement, and size, and the location of equipment and open spaces, including buffer areas and other yards.

### **17.540.035 Development and Operating Standards**

- A. General Standards.** Standards for floor areas, heights, landscaping areas, off-street parking, setbacks, and other structure and property development standards that apply to the category of use or the zoning district of the subject parcel shall be used as a guide for determining the appropriate development standards for temporary uses and events. However, the review authority may authorize an adjustment from the specific requirements as deemed necessary and appropriate.
- B. Standards for Specific Temporary Activities.** Specific temporary land use activities shall comply with the development standards identified in Chapter 17.300, *General Property Development and Land Use Standards*, as applicable to the use, in addition to those identified in Sections 17.550.030 and 17.540.035.A.

### **17.540.040 Post Approval Procedures**

The approval or denial of a Temporary Use or Temporary Event Permit may be appealed in compliance with Chapter 17.640, *Appeals*. The procedures of Chapter 17.510, *Permit Implementation, Time Limits, and Extensions*, shall apply after the approval of the permit.

- A. Condition of the Site Following a Temporary Use or Event.** Each site occupied by a temporary use or event shall be cleaned of debris, litter, or any other evidence of the temporary activity on completion or removal of the activity, and shall thereafter be used in compliance with the provisions of this Title.
- B. Revocation.** A Temporary Use or Temporary Event Permit may be revoked or modified, with only a 24-hour notice, in compliance with Chapter 17.660, *Revocations and Modifications*.
- C. Extension of the Permit.**
- D. Temporary uses.** The Director may extend the operational length of a temporary use or event if the delay is beyond the control of and was not the result of actions by the permittee.
- E. Expiration of Permit.** A Temporary Use, Special Event, or Temporary Event Permit shall be considered to have expired when the approved use has ceased or is suspended.

#### **17.540.045 Garage Sale Permits**

- A. Purpose.** This Section provides a process for permitting and regulating garage sales to ensure that basic health, safety, and community welfare standards are met, with the minimum necessary conditions or limitations consistent with the temporary nature of the activity.
- B. Operating Standards.** Garage sales are permitted in all residential zoning districts subject to the following restrictions:
  1. Garage sales may be conducted no more than three times per residence in any calendar year, and no more than one permit may be issued per residence in a three-month period.
  2. A garage sale may be conducted for a maximum of three consecutive days. Inclement weather may extend the permitted garage sale by the number of days lost due to the inclement weather as long as the garage sale is conducted within seven days of the original permitted garage sale date.
  3. A permittee may conduct a permitted garage sale within 30 days after issuance of the permit with no penalty as long as written notice is provided to the City prior to the date of the original permitted garage sale.
  4. No signs advertising a garage sale shall be placed on any public property, including but not limited to, utility poles, street name signs, traffic signs, trees or walls. The permittee shall remove any and all legally placed advertising signs each day at or before the end of the garage sale.
  5. The permittee shall be required to sign an affidavit that all goods and equipment to be displayed and sold at a garage sale have not been acquired elsewhere for resale.
  6. A group garage sale at one location may be held, provided that all persons participating in the group garage sale sign the above-mentioned affidavit.

- C. Permit Requirements.** A permit shall be issued, without tax, upon submission of an application and filing of the affidavit mentioned in Section 17.540.045.B.5. Each application for a garage sale permit shall be accompanied by a nonrefundable application fee established by the City Council Fee Resolution.

### **17.540.050 Grand Openings**

A permit to identify the opening of a new business may be issued by the Director, subject to the provisions of this Chapter.

- A. General Provisions.** Grand openings shall be limited to the following:
1. Inflatable advertisement devices, as defined in Section 17.330.050, and provided that such devices are ground mounted.
  2. Temporary banners, as defined in Article 7, *Definitions*, and subject to the provisions of Table 3-11.
  3. Jump tents, displays, sales, and similar related activities in the parking lot of the subject business.
  4. Any food or drinks provided in conjunction with a permit pursuant to this Section shall only be served in compliance with applicable laws, including required permits for sale or distribution of food and/or drinks.
  5. Amplified sound, provided that the applicant obtains a valid police permit prior to the issuance of a grand-opening permit. When the use of amplified sound is for less than 30 minutes within a 24-hour period, then a police permit shall not be required.
- B. Permits.** Grand opening permits shall be limited to: a new business; the change of ownership for an existing business; and/or the change of name for an existing business. However, in no case shall the number of grand openings, pursuant to this Section, exceed one per 12-month period, per business address. A grand “re-opening” shall not constitute a grand opening for purposes of this Section.
- C. Authorization.** Prior to the issuance of a permit for a grand opening, the applicant shall provide the City with written permission from the property owner or management, authorizing the proposed grand opening.

Temporary Use, Temporary Event

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## CHAPTER 17.550 ADMINISTRATIVE AND CONDITIONAL USE PERMITS

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### Sections:

- 17.550.005 - Purpose
- 17.550.010 - Applicability
- 17.550.015 - Application Filing, Processing, and Review
- 17.550.020 - Findings and Decision
- 17.550.025 - Conditions of Approval
- 17.550.030 - Post Approval Procedures

### 17.550.005 Purpose

This Chapter provides procedures for reviewing Administrative and Conditional Use Permit applications that are intended to allow for specified activities and uses as identified in the various zoning districts, whose effect on the surrounding area cannot be determined before being proposed for a particular location. Applications for Administrative and Conditional Use Permits shall be reviewed for compatibility, configuration, design, location, and potential impacts of the proposed use and suitability of the use to the site and surrounding area.

### 17.550.010 Applicability

An application for an Administrative or Conditional Use Permit shall be required for a specified land use that is listed in Article 2, *Zoning Districts, Permitted Land Uses, and Zone-Specific Standards*, as being subject to approval of an Administrative or Conditional Use Permit.

### 17.550.015 Application Filing, Processing, and Review

- A. **Filing.** An application for an Administrative or Conditional Use Permit shall be completed, filed, and processed in compliance with Chapter 17.500, *Applications, Processing, and Fees*. The application package shall include all information specified in the application, any applicable Division handout, and any additional information required by the Director in order to conduct a thorough review of the proposed project. It is the responsibility of the applicant to establish evidence in support of the findings required by Section 17.550.020, *Findings and Decision*.
- B. **Notice, Hearings, and Administrative Review.** Notice, hearings, and administrative review regarding an application for an Administrative Use Permit or Conditional Use Permit shall be provided in compliance with Chapter 17.630, *Public Hearings and Administrative Review*, and as follows:
  - 1. **Administrative Use Permits.** The Director shall conduct an administrative review of an application for an Administrative Use Permit.
  - 2. **Conditional Use Permits.** The Commission shall conduct a public hearing on an application for a Conditional Use Permit.

**17.550.020 Findings and Decision**

Following an administrative review or public hearing, the appropriate review authority shall record the decision in writing with the findings on which the decision is based. The Administrative or Conditional Use Permit may be approved, with or without conditions, only after first making all of the following findings, and any additional findings required for the approval of specific land uses in Article 4, *Standards for Specific Land Uses and Accessory Uses*.

- A. The proposed use is allowed within the subject zoning district with the approval of an Administrative or Conditional Use Permit and complies with all other applicable provisions of this Title and the WMC.
- B. The proposed use is consistent with the General Plan and any applicable specific plan.
- C. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity of the subject site.
- D. The subject site is physically suitable for the type and intensity of use being proposed, including access, compatibility with adjoining land uses, shape, size, provision of utilities, and the absence of physical constraints.
- E. The establishment, maintenance, or operation of the proposed use will not be detrimental to the public interest, health, safety, or general welfare, or injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located.

**17.550.025 Conditions of Approval**

In approving an Administrative or Conditional Use Permit, the review authority may impose reasonable and necessary specific design, locational, and operational conditions that may include but are not limited to the City's "Comprehensive Standard Conditions of Approval for Site Plan Review and Other Discretionary Planning and Zoning Applications," as adopted by the Commission, to ensure that the approval will be in compliance with the findings required by Section 17.550.020, *Findings and Decision*.

**17.550.030 Post Approval Procedures**

- A. **General Procedures.** Procedures relating to appeals, revocations, and modifications as identified in Article 6, *Zoning Code Administration*, in addition to those identified in Chapter 17.510, *Permit Implementation, Time Limits, and Extensions*, shall apply following the approval of an Administrative or Conditional Use Permit application.
- B. **Permit Validity.** An Administrative or Conditional Use Permit granted pursuant to the provisions of this Chapter that is valid and in effect shall run with the land and shall continue to be valid upon a change of ownership of the site or structure that was the subject of the use permit application. However, should the activity approved by the use permit be discontinued for a consecutive period of one year, the use permit shall be deemed expired and shall become null and void. Upon expiration, further continuation of the activity on-site will require approval of a new Administrative or Conditional Use Permit application.



## **CHAPTER 17.555 ADMINISTRATIVE ADJUSTMENTS AND VARIANCES**

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### **Sections:**

- 17.555.005 - Purpose
- 17.555.010 - Applicability
- 17.555.015 - Application Filing, Processing, and Review
- 17.555.020 - Findings and Decision
- 17.555.025 - Conditions of Approval
- 17.555.030 - Post approval Procedures

### **17.555.005 Purpose**

The provisions of this Chapter allow for:

- A.** Administrative Adjustment of specific development standards of this Title when the strict application of those standards creates an unnecessary, involuntarily created hardship or unreasonable regulation that makes it impractical to require compliance with the development standards.
- B.** Variances from the development standards of this Title only when, because of special circumstances applicable to the property (including location, shape, size, surroundings, topography, or other conditions), the strict application of this Title denies the property owner privileges enjoyed by other property owners in the vicinity and in identical zoning districts.

### **17.555.010 Applicability**

- A. Administrative Adjustment.** The Director may grant an Administrative Adjustment for only the development standards identified in Table 5-2. An Administrative Adjustment may be granted only once for a specific type of request per parcel. A request that exceeds the limitations identified in Table 5-2 shall require the filing of an application for a Variance.

**Table 5-2**  
**Administrative Adjustments**

<i>Type of Administrative Adjustment Allowed</i>	<i>Maximum Adjustment</i>
<b>Dwelling unit size.</b> A decrease in the minimum square footage requirements for dwelling units.	10 percent
<b>Driveway width.</b> An increase in the maximum driveway size.	10 percent
<b>Fence, walls, or hedges.</b> Fences, gates, pilasters, or walls in the side or rear yards that exceed 6 feet in height in the R-1 and 8 feet in height in all other zoning districts <sup>1</sup> .	Not to exceed 8 feet or 10 feet <sup>2</sup>
<b>Distances between structures.</b> A decrease in the minimum distance between a detached accessory structure and the main structure.	10 percent
<b>Open space.</b> A decrease in the minimum open space requirements.	10 percent
<b>Parking.</b> A decrease in the minimum number of parking spaces and parking lot and loading dimensions (e.g., aisle, driveway, and space widths).	10 percent
<b>Projections.</b> An increase in the allowed projections into setbacks in compliance with Section 17.300.020, <i>Setback Regulations and Exceptions</i> .	10 percent
<b>Setbacks.</b> A decrease in the minimum required setbacks.	10 percent
<b>Structure height.</b> An increase in the maximum allowable structure height.	10 percent
<b>Recreational vehicle development standards.</b> See Section 17.550.010.B.	Not Applicable

Notes:

1. If abutting freeway right-of-way, fence can be 8 feet in height.
2. Where a 6-foot fence is permitted, an administrative adjustment may be granted up to 8-feet in height; where an 8-foot fence is permitted, an administrative adjustment may be granted up to 10-feet in height.

## **B. Administrative Adjustment for Recreational Vehicles.**

1. The permanent storage of recreational vehicles that do not comply with all of the development standards and criteria in Section 17.550.010.A shall require the completion and review of an Administrative Adjustment application and the approval of a recreational vehicle parking permit by the Director pursuant to the following procedures:
  - a. A completed application form must be submitted together with all of the related materials set forth on the application form,
  - b. The processing fee as established by the City Council Fee Resolution must be submitted together with the application.
  - c. The application, submitted materials, and fee shall be reviewed to determine if they are complete and contain all information necessary for processing the application. If the Director determines that the application is not complete, the applicant shall be notified of that fact within 30 days of submittal of the application, and shall be provided with a list of the information and/or material needed to complete the application.
  - d. The city's review of the request for a permit shall commence only upon the determination that the application is complete.
  - e. During the review process, the Director has discretion to hold one or more meetings with all of the interested parties for the purpose of discussing the proposed application.

- f. At the conclusion of the review process, the Director shall make a determination and provide the applicant with a letter stating the decision to approve, conditionally approve, or deny the request for a permit.
2. Each property owner of record within 300 feet of the exterior boundaries of the subject site must be notified of the proposed Administrative Adjustment. The public notice shall specify that all comments and/or testimony must be received by the Director during the specified 10-calendar-day public notification period, as set forth on the notice. Public notices will also be posted at the site and in the Civic Center pursuant to the city's procedures for posting public notices. The Director shall not make a final determination concerning the approval of an application until the required 10-day notification period has expired.
  - a. The following mandatory findings must be made by the Director prior to approving a permit.
    - i. The proposed storage is consistent with the goals, policies, and programs of the Westminster General Plan;
    - ii. The proposed storage will not create a safety hazard;
    - iii. The pad design and proposed storage complies with all other provisions of this Title; and
    - iv. The pad design and proposed storage will not significantly impact the surrounding properties and the community in an adverse manner.
3. In reviewing an application for a recreational vehicle parking permit, the Director may impose conditions of approval in order to mitigate potential impacts. If the mandatory findings cannot be made, the Director must deny the Administrative Adjustment application.
4. The decision of the Director in granting or denying the application shall become final and effective 15 days after the date of the notification of the Director's decision. Appeals of the decision made by the Director shall be filed in duplicate with the secretary of the Commission, who shall schedule a public hearing on such appeal before the Commission in the manner prescribed in Chapter 17.640, *Appeals*.
5. The resolution of the Commission in granting or denying an appeal shall become final and effective 15 days after the date of the mailing of the notice of the decision, unless appealed to the city council in the manner prescribed in Chapter 17.640, *Appeals*.
6. After the effective date of the ordinance codified in this Chapter, the storage of any recreational vehicle within an R1 zoning district not in compliance with the provisions of this Section is found and declared to be a public nuisance and a misdemeanor. The City attorney is authorized to proceed by all appropriate legal proceedings to enjoin and/or prosecute the continued storage of such recreational vehicle not in compliance with this section.

- C. Administrative Adjustment to the Area and Height Computation for Signs.** The Director may allow an increase to the maximum allowed sign area or height restrictions in accordance with the provisions and findings of Section 17.330.020.E, *Administrative Adjustments to the Area and Height Computation*.
- D. Variance.** The Commission may grant a Variance from the requirements of this Title; except that a Variance shall not allow a use of land not otherwise allowed in the applicable zoning district by Article 2, *Zoning Districts, Permitted Land Uses, and Zone-Specific Standards*.

### **17.555.015 Application Filing, Processing, and Review**

- A. Filing.** An application for an Administrative Adjustment or a Variance shall be completed, filed, and processed in compliance with Chapter 17.500, *Applications, Processing, and Fees*. The application package shall include all information specified in the application, any applicable Division handout, and any additional information required by the Director in order to conduct a thorough review of the proposed project. It is the responsibility of the applicant to establish evidence in support of the findings required by Section 17.550.050, *Findings and Decision*.
- B. Notice and Hearings.** Notice and hearings regarding an application for a Variance or an Administrative Adjustment shall be provided in compliance with Chapter 17.630, *Public Hearings and Administrative Review*, and as follows:
  1. **Administrative Adjustment.** The Director shall conduct an administrative review of an application for an Administrative Adjustment.
  2. **Variance.** The Commission shall conduct a public hearing on an application for a Variance.

### **17.555.020 Findings and Decision**

- A. Administrative Adjustment Findings.** The Director shall record the decision in writing with the findings on which the decision is based. The Administrative Adjustment may be approved, with or without conditions, only after making all of the following findings:
  1. The strict application of the applicable development standard creates an unnecessary, involuntarily created hardship or unreasonable regulation that makes it obviously impractical to require compliance with the development standards.
  2. Approval of the Administrative Adjustment would not be detrimental to the public health, interest, safety, or general welfare and would not be detrimental or injurious to property or improvements in the vicinity and in the same zoning district.
  3. The project is consistent with the General Plan and complies with all other applicable provisions of this Title.
- B. Variance Findings.** The Commission shall record the decision in writing with the findings on which the decision is based. The Variance may be approved, with or without conditions, only after making all of the following findings:

1. There are special circumstances applicable to the property (e.g., location, shape, size, surroundings, topography) or to the intended use of the property, so that the strict application of this Title denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts.
2. The strict application of the applicable development standard creates an unnecessary, involuntarily created hardship or unreasonable regulation that makes it obviously impractical to require compliance with the development standards.
3. The Variance is necessary for the preservation and enjoyment of substantial property rights possessed by other property owners in the same vicinity and zoning district and denied to the property owner for which the Variance is sought.
4. The project is consistent with the General Plan and complies with all other applicable provisions of this Title.
5. Approval of the Variance would not be detrimental to the public health, interest, safety, or general welfare and would not be detrimental or injurious to property or improvements in the vicinity and in the same zoning district.

### **17.555.025 Conditions of Approval**

In approving an Administrative Adjustment or Variance, the review authority may impose reasonable and necessary specific design, locational, and operational conditions that may include but are not limited to the City's "Comprehensive Standard Conditions of Approval for Development Review and Other Discretionary Planning and Zoning Applications," as adopted by the Council, to ensure that the approval will be in compliance with the findings required by Section 17.550.025, *Findings and Decision*.

### **17.555.030 Post Approval Procedures**

Procedures relating to appeals, notices, revocations, and modifications as identified in Article 6, *Zoning Code Administration*, in addition to those identified in Chapter 17.510, *Permit Implementation, Time Limits, and Extensions*, shall apply following the approval of an Administrative Adjustment or a Variance application.

## CHAPTER 17.560 COMPREHENSIVE PLANS

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### Sections:

- 17.560.005 - Purpose
- 17.560.010 - Applicability
- 17.560.015 - Application Filing, Processing, and Review
- 17.560.020 - Findings and Decision
- 17.560.025 - Comprehensive Plan Modifications, Major and Minor
- 17.560.030 - Conditions of Approval
- 17.560.035 - Post approval Procedures

### 17.560.005 Purpose

This Section provides flexibility in the application of zoning code standards. It is intended as an alternate process to accommodate unique developments for residential, commercial, professional, or other similar activities, including combinations of uses and modified development standards, to create a desirable, functional, and community environment under controlled conditions of a development plan.

### 17.560.010 Applicability

An application for a Comprehensive Plan shall be filed with the Division when required for development in compliance with Section 17.25.030, *Planned Development (PD) Overlay*. The approval of a Comprehensive Plan shall be subject to the applicant entering into an agreement or agreement with the City for the provision and guarantee of the terms, conditions, and regulations of the planned development as stipulated by Chapters 17.580, *Development Agreements*, and 17.585, *Reasonable Accommodations*, and as approved by the Council.

### 17.560.015 Application Filing, Processing, and Review

- A. **Filing.** An application for a Comprehensive Plan shall be completed, filed, and processed in compliance with Chapter 17.500, *Applications, Processing, and Fees*. The application package shall include all information specified in the application, any applicable Division handout, and any additional information required by this Title or the Director in order to conduct a thorough review of the proposed project. It is the responsibility of the applicant to establish evidence in support of the findings required by Section 17.560.020, *Findings and Decision*.
- B. **Comprehensive Plan Requirements.** All Comprehensive Plans shall be prepared and endorsed by a professional team that shall include a licensed landscape architect, a registered civil engineer, and a licensed architect, as applicable, and shall include but not be limited to:
  1. Site plan showing building(s), various functional use areas, parking, and circulation.
  2. Description of development standards, which may include but not be limited to building heights, setbacks, and parking requirements.
  3. Preliminary building plans, including floor plans and exterior elevations.

4. Landscaping plans, including a plant palette.
  5. Lighting and signage plans.
  6. Civil engineering plans, including site grading, public right-of-way improvements, drainage, trash/recycling areas, and public utility extensions, as necessary.
  7. Proposed use and occupancy, construction type, building height and area of each building or structure, proposed distances between buildings or structures, and setbacks to property lines.
  8. Other information or applicable materials as may be deemed necessary by the Director.
- C. Notice and Hearings.** Notice and hearings regarding an application for a Comprehensive Plan or a modification to an approved Comprehensive Plan shall be provided in compliance with Chapter 17.630, *Public Hearings and Administrative Review*.
- D. Review Authority.** A Comprehensive Plan shall be approved by the adoption of an ordinance or disapproved by a resolution of the Council after consideration of the Commission's recommendation.

### **17.560.020 Findings and Decision**

The Commission, in conjunction with a public hearing, shall review and make recommendations to the Council regarding the Comprehensive Plan. The Council, after a public hearing, may approve, conditionally approve, or disapprove a Comprehensive Plan. A Comprehensive Plan may be approved provided the facts submitted and evaluated during the review process support all of the following findings.

- A.** The proposed development is capable of creating an environment of sustained desirability and stability, or there is adequate assurance that such objective will be attained.
- B.** The proposed uses will not be detrimental to present and potential surrounding uses, but will have a beneficial effect.
- C.** The streets and thoroughfares serving the development are suitable and adequate to carry anticipated traffic and the development will not generate traffic that will overload the adjacent street network.
- D.** The proposed development is compatible with the surrounding area.
- E.** The types and locations of any proposed commercial development have been demonstrated to be economically justified.
- F.** The Comprehensive Plan is in conformance with the General Plan, or a concurrent General Plan Amendment is in process.
- G.** Any exception from the standards and requirements of this Title is warranted by the design and amenities incorporated in the Comprehensive Plan and is desired by the Council.
- H.** Existing and proposed utility services are adequate for the proposed uses.

- I. The Comprehensive Plan has complied with all applicable City requirements.

### **17.560.025 Comprehensive Plan Modifications, Major and Minor**

- A. Major changes or alterations to an approved Comprehensive Plan shall be considered by the Commission at a public hearing, which shall make recommendations to the Council. The Council may then approve, conditionally approve, or disapprove the proposed changes or alterations, after a public hearing.
- B. The Director may administratively approve minor changes or alterations to an approved Comprehensive Plan, subject to an appeal pursuant to Chapter 17.640, *Appeals*, provided that the Director makes the following findings:
1. The proposed changes are consistent with the intent of the approved Comprehensive Plan.
  2. The proposed changes will not adversely impact the environment.
  3. The proposed changes will not be detrimental to the surrounding uses.
  4. The proposed changes will not significantly increase traffic levels on existing streets and thoroughfares within and surrounding the development.
  5. Any proposed change that requires exception from standard ordinance requirements, is warranted by the design and amenities incorporated into the approved Comprehensive Plan.
- C. If the Director determines that the above findings cannot be made, then the request shall be considered a major change and referred to the Commission for review at a public hearing and for Council review at a public hearing.
- D. Maintenance, rehabilitation, renovation, and reconstruction of existing structures, that will not alter the site plan shall not require a Comprehensive Plan or any Comprehensive Plan modification, minor or major.
- E. All determinations required by this Section are subject to appeal pursuant to Chapter 17.640, *Appeals*.

### **17.560.030 Conditions of Approval**

The Council may approve a Comprehensive Plan in compliance with Section 17.560.020, *Findings and Decision*, and may impose conditions upon the project including but not limited to the City's "Comprehensive Standard Conditions of Approval for Site Plan Review and Other Discretionary Planning and Zoning Applications," as adopted by the Commission to ensure that the project will meet all of the required findings. Conditions may relate to both on- and off-site improvements that are reasonable and necessary to mitigate project-related impacts, and to carry out the purpose and requirements of the Comprehensive Plan and all applicable development standards and design guidelines.

Nothing in this Section shall preclude the Commission from recommending, and the Council from approving a Comprehensive Plan and requiring subsequent discretionary review of that Comprehensive Plan.



**17.560.035 Post Approval Procedures**

Procedures relating to appeals, notices, revocations and modifications as identified in Article 6, *Zoning Code Administration*, in addition to those identified in Chapter 17.510, *Permit Implementation, Time Limits, and Extensions*, shall apply following the approval of a Comprehensive Plan application.

The Council may modify any provisions of this Section after consideration of the Commission recommendations.

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## CHAPTER 17.565 SPECIFIC PLANS

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### Sections:

- 17.565.005 - Purpose
- 17.565.010 - Initiation of Specific Plans
- 17.565.015 - Preparation and Content of Specific Plans
- 17.565.020 - Filing, Processing, and Adoption of Specific Plans
- 17.565.025 - Implementation and Amendments

### 17.565.005 Purpose

This Section provides procedures for preparing, processing, reviewing, adopting, and amending a Specific Plan. A Specific Plan can be used to systematically implement the General Plan for any part of the City.

### 17.565.010 Initiation of Specific Plans

A Specific Plan may be initiated in either of the following manners:

- A. **City.** By a Resolution of Intention adopted by the Council.
- B. **Property Owner.** By an application in compliance with Chapter 17.500, *Applications, Processing, and Fees*. For Specific Plans proposed by private property owners, the project area may be one parcel under single ownership or a combination of adjoining parcels subject to a unified planning concept with the full written concurrence of all applicable property owners.

### 17.565.015 Preparation and Content of Specific Plans

The initiator shall prepare a draft Specific Plan for review by the City, which includes detailed information in the form of text and diagrams, organized in compliance with an outline furnished by the Division and State law (California Government Code Section 65451). The following information shall be provided:

- A. **Proposed Land Uses.** The distribution, location, and extent of land uses proposed within the area covered by the Specific Plan, including open space areas.
- B. **Infrastructure.** The proposed distribution, location, extent, and intensity of major components of public and private drainage, energy, sewage, solid waste disposal, circulation, transportation, water, and other essential facilities proposed within the Specific Plan area and needed to support the proposed land uses.
- C. **Land Use and Development Standards.** Standards, criteria, and guidelines by which development would proceed, and standards for the conservation, development, and utilization of natural resources, where applicable.
- D. **Implementation Measures.** A program of implementation measures, including regulations, programs, public works projects, and financing measures necessary to carry out the proposed

land uses, infrastructure, and development and conservation standards and criteria.

- E. Relationship to General Plan.** A discussion of the relationship of the Specific Plan to the objectives, policies, general land uses, and programs of the General Plan.
- F. Design Standards and Guidelines.** Standards and guidelines for proposed structures and public street features within the boundaries of the Specific Plan area.
- G. Additional Information.** The Specific Plan shall contain any additional information determined to be necessary by the Director based on the characteristics of the area to be covered by the plan, applicable policies of the General Plan, or any other issue(s) determined by the Director to be significant.

### **17.565.020 Filing, Processing, and Adoption of Specific Plans**

- A. Filing and Initial Processing.** A draft Specific Plan proposed by a property owner shall be filed with the Division and shall be accompanied by the fee required by the City Council Fee Resolution. A draft plan proposed by an applicant or prepared by the City shall then be processed in the same manner as required for General Plans by state law (California Government Code Sections 65350 et seq.), and as provided by this Section.
- B. Division Evaluation.** After the receipt of a draft Specific Plan, the Division shall conduct an initial review in compliance with Section 17.500.025, *Initial Application Review*, to determine whether it complies with the provisions of this Section. If the draft plan is not in compliance, it shall be returned to the applicant with a written explanation of why it does not comply, and with suggested revisions to ensure compliance. When a draft plan is returned by the applicant to the Division and the Division determines it is complete and in compliance with this Section, the plan shall be deemed to be accepted for processing.
- C. Environmental Review.** The draft Specific Plan shall be subject to environmental review in compliance with CEQA and the City's CEQA Guidelines.
- D. Public Hearings.** A proposed Specific Plan shall be subject to public hearings before both Commission and Council before its adoption, as follows:
  1. **Commission.** The hearing shall receive public notice and be conducted in compliance with Chapter 17.630, *Public Hearings and Administrative Review*. After the hearing, the Commission shall forward a written recommendation, with appropriate findings to the Council, in compliance with Section 17.560.055.D.2
  2. **Council.** Following the hearing at which the Commission makes a recommendation, a public hearing on the Specific Plan shall be scheduled. The hearing shall be noticed and conducted in compliance with Chapter 17.630, *Public Hearings and Administrative Review*. After the hearing, the Council may adopt the Specific Plan, may deny the plan, or may adopt the plan with changes, with appropriate findings, provided that any substantial modifications to the plan that were not considered by the Commission shall be referred to the Commission for its recommendation, in compliance with state law (California Government Code Section 65356). Failure of the Commission to report within the time period set by the Council shall be deemed a recommendation for the approval of the changes.

- E. Conformance with the General Plan.** The Council shall adopt a Specific Plan only if it finds that the proposed plan is consistent with the objectives, policies, general land uses, and programs of the General Plan and other adopted goals and policies of the City.

### **17.565.025 Implementation and Amendments**

- A. Development within Specific Plan Area.** After the adoption of a Specific Plan, subsequent projects to implement the Specific Plan may be approved or adopted within an area covered by a Specific Plan only if first found consistent with the Specific Plan. The Council may impose a Specific Plan fee surcharge on development permits within the Specific Plan area, in compliance with state law (California Government Code Section 65456).
- B. Amendments.**
1. An adopted Specific Plan shall be amended through the same procedure specified by this Section for the adoption of a Specific Plan.
  2. The Specific Plan may be amended as often as deemed necessary by the Council, in compliance with state law (California Government Code Section 65453).
- C. Modifications.** Development standards identified in an adopted Specific Plan may be modified only as specified in the Specific Plan and in compliance with state law.

Specific Plans

17.565

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## **CHAPTER 17.570 AFFORDABLE HOUSING DENSITY BONUSES**

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### **Sections:**

- 17.570.005 - Purpose
- 17.570.010 - Applicability
- 17.570.015 - Affordable Housing Agreement
- 17.570.020 - Application Filing, Processing, and Review
- 17.570.025 - Findings and Decision
- 17.570.030 - Conditions of Approval
- 17.570.035 - Post Approval Procedures

### **17.570.005 Purpose**

This Chapter is intended to implement the requirements of state law for density bonuses and other bonus incentives pursuant to California Government Code, Section 65915, or as may be amended, and the goals and policies of the Housing Element of the City's General Plan.

### **17.570.010 Applicability**

In all zoning districts where residential uses are permitted, the Council shall implement the density bonus and other bonus incentive provisions of California Government Code, Section 65915, or as may be amended. Notwithstanding the foregoing sentence, where other provisions set forth in this Title provide processes through which the City may implement the density bonus and other bonus incentive provisions of California Government Code, Section 65915, or as may be amended, neither those provisions nor any other provision of this Title are intended to require the City to grant modifications in any zone in addition to those that may be required by California Government Code, Section 65915.

### **17.570.015 Affordable Housing Agreement**

Applicants requesting a density bonus and/or additional incentive shall agree to enter into an affordable housing agreement with the city. The terms of the draft agreement shall be reviewed and revised as appropriate by the Director, who shall formulate a recommendation to the Council for final approval.

Following the approval of an application by the Council, the applicant shall agree to enter into an affordable housing agreement with the City. Following execution of the agreement by all parties, the completed affordable housing agreement, or memorandum thereof, shall be recorded and the conditions filed and recorded on the parcel(s) designated for the construction of affordable units. The approval and recordation shall take place prior to final map approval, or, where a map is not being processed, prior to issuance of building permits for such parcels or units. The affordable housing agreement shall be binding to all future owners and successors in interest.

**17.570.020 Application Filing, Processing, and Review**

- A. Filing.** An application for a density bonus or other bonus incentives shall be completed, filed, and processed in compliance with Chapter 17.500, *Applications, Processing, and Fees*. The application package shall include all the information specified in the application form, any applicable Division handout, and any additional information required by the Director in order to conduct a thorough review of the proposed project. It is the responsibility of the applicant to establish evidence in support of the findings required by Section 17.570.025, *Findings and Decision*.
- B. Notice and Hearings.** Notice and hearings regarding an application for a density bonus and other bonus incentives shall be provided in compliance with Chapter 17.630, *Public Hearings and Administrative Review*.
- C. Review Authority.** Requests for a density bonus and other bonus incentives shall be reviewed by the Commission, who shall make a recommendation on which the Council shall act upon by resolution.

**17.570.025 Findings and Decision**

The Commission, in conjunction with a public hearing, shall review and make recommendations to the Council regarding the density bonus and other bonus incentives request. The Council, after a public hearing, may approve, conditionally approve, or disapprove a density bonus and other bonus incentives. A density bonus and other bonus incentives may be approved provided the facts submitted and evaluated during the review process support the following findings:

- A.** The project would be compatible with the purpose and intent of the General Plan and the provisions of this Title.
- B.** The project will not be detrimental to the public interest, health, safety, or general welfare, or injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located.
- C.** The number of dwellings can be accommodated by existing and planned infrastructure capacities.
- D.** Adequate evidence exists to ensure that the development of the property would result in the provision of affordable housing in a manner consistent with California Government Code, Section 65915, or as may be amended, and the purpose and intent of this Title.
- E.** There are sufficient provisions to guarantee that the designated dwelling units would remain affordable in the future.



**17.570.030 Conditions of Approval**

The Council may approve a density bonus and other bonus incentives in compliance with Section 17.570.025, *Findings and Decision*, and may impose conditions upon the project, including but not limited to the City's "Comprehensive Standard Conditions of Approval for Site Plan Review and Other Discretionary Planning and Zoning Applications," as adopted by the Commission, to ensure that the project will meet all of the required findings. Conditions may relate to both on- and off-site improvements that are reasonable and necessary to mitigate project-related impacts, and to carry out the purpose and requirements of this Title and applicable development standards and design guidelines.

**17.570.035 Post Approval Procedures**

Procedures relating to appeals, notices, revocations, and modifications as identified in Article 6, Zoning Code Administration, in addition to those identified in Chapter 17.510, *Permit Implementation, Time Limits, and Extensions*, shall apply following the approval of a density bonus and other bonus incentives.

Affordable Housing Density Bonuses

17.570

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## CHAPTER 17.580 DEVELOPMENT AGREEMENTS

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### Sections:

- 17.580.005 - Purpose
- 17.580.010 - Applicability
- 17.580.015 - Application Filing, Processing, and Review
- 17.580.020 - Public Hearings
- 17.580.025 - Content of Development Agreement
- 17.580.030 - Execution and Recordation
- 17.580.035 - Environmental Review
- 17.580.040 - Periodic Review
- 17.580.045 - Amendment or Cancellation of Development Agreement
- 17.580.050 - Effect of Development Agreement
- 17.580.055 - Approved Development Agreements

### 17.580.005 Purpose

This Section provides procedures and requirements for the review and approval of Development Agreements consistent with the provisions of state law.

### 17.580.010 Applicability

Consideration of a Development Agreement may be initiated by the Council or property owner(s) or other person(s) having a legal or equitable interest in the property proposed to be subject to the agreement.

### 17.580.015 Application Filing, Processing, and Review

- A. Owner's Request.** An owner of real property may request and apply through the Division to enter into a Development Agreement provided that:
  - 1. The status of the applicant as property owner or bona fide representative of the owner is established to the satisfaction of the Director
  - 2. The application is accompanied by all documents, information, and materials required by the Division.
- B. Director Review.** The Director shall receive, review, process, and prepare recommendations for Commission and Council consideration on all applications for development agreements.
- C. Concurrent Processing and Public Hearings.** All development-related applications shall be processed and scheduled for public hearing concurrently with the application for a Development Agreement. The Council shall be the review authority for the Development Agreement and all associated applications.
- D. Fees.** The application for a Development Agreement shall include the processing fee established by the City Council Fee Resolution. Additionally, appropriate fees shall be

established and collected for periodic reviews conducted by the Director in compliance with Subsection 17.580.040.A, *Periodic Review*.

### **17.580.020 Public Hearings.**

- A. Commission Hearing.** The Director, upon finding the application for a Development Agreement complete, shall set the date for a public hearing before the Commission in compliance with Chapter 17.630, *Public Hearings and Administrative Review*. Following conclusion of a public hearing, the Commission shall adopt a resolution and make a written recommendation to the Council that it approve, conditionally approve, or deny the application.
- B. Council Hearing.** Upon receipt of the Commission's recommendation, the City Clerk shall set a date for a public hearing before the Council in compliance with Chapter 17.630, *Public Hearings and Administrative Review*. Following conclusion of the public hearing, the Council shall approve, conditionally approve, or deny the application with appropriate findings in compliance with Subsection 17.580.020.F, *Required Findings*.
- C.** If the Council proposes to adopt a substantial modification to the Development Agreement not previously considered by the Commission during its hearings, the proposed modification shall be first referred back to the Commission for its recommendation, in compliance with state law (California Government Code Section 65857). Failure of the Commission to report back to the Council within 40 days after the referral, or within a longer time set by the Council, shall be deemed a recommendation for approval of the proposed modification.
- D. Notice of the Hearings.** Notice of the hearings outlined in Sections 17.580.020.A and 17.580.020.B, shall be given in the form of a notice of intention to consider approval of a Development Agreement in compliance with state law (California Government Code Section 65867).
- E. Adopting Ordinance.** Should the Council approve or conditionally approve the application, it shall, as a part of the action of approval, direct the preparation of a Development Agreement embodying the conditions and terms of the application as approved or conditionally approved by it, as well as an ordinance authorizing execution of the Development Agreement by the Council, in compliance with state law (California Government Code Section 65867.5).
- F. Required Findings.** The ordinance shall contain the following findings and the facts supporting them. It is the responsibility of the applicant to establish the evidence in support of the required findings.
  - 1. The Development Agreement is in the best interests of the city, promoting the public interest and welfare.
  - 2. The Development Agreement is consistent with all applicable provisions of the General Plan, any applicable Specific Plan, and this Title.
  - 3. The Development Agreement is in compliance with the conditions, requirements, restrictions, and terms of Sections 17.580.025.A, *Mandatory Contents*, and 17.580.025.B, *Permissive Contents*.

- G. Referendum.** The ordinance is subject to referendum in compliance with state law (California Government Code Section 65867.5).

### **17.580.025 Content of Development Agreement**

- A. Mandatory Contents.** A Development Agreement entered into in compliance with this Section shall contain the mandatory provisions (e.g., conditions, requirements, restrictions, and terms) specified by state law (California Government Code Section 65865.2 [Agreement Contents]).
- B. Permissive Contents.** A Development Agreement entered into in compliance with this Section may contain the permissive provisions (e.g., conditions, requirements, restrictions, and terms) specified by state law (Government Code Section 65865.2 [Agreement Contents]), and any other terms determined to be appropriate and necessary by the Council, including provisions for the payment to the city of monetary consideration.

### **17.580.030 Execution and Recordation**

- A. Effective Date.** The city shall not execute any Development Agreement until on or after the date on which the ordinance approving the agreement becomes effective, and until it has been executed by the applicant.
- B. Conditioning Approval.** The provisions of this Section shall not be construed to prohibit the Director, Commission, or Council from conditioning an approval of a discretionary permit or entitlement on the execution of a Development Agreement where the condition is otherwise authorized by law.
- C. Recordation.** A Development Agreement shall be recorded with the County Recorder no later than 10 days after it is executed, in compliance with state law (California Government Code Section 65868.5).

### **17.580.035 Environmental Review**

The approval or conditional approval of a Development Agreement in compliance with this Section shall be deemed a discretionary act for the purposes of CEQA.

### **17.580.040 Periodic Review**

- A. Periodic Review.** Every Development Agreement approved and executed in compliance with this Section shall be subject to periodic review by the Director during the full term of the agreement. Appropriate fees to cover the city's costs to conduct the periodic reviews shall be collected from the contracting party in compliance with Section 17.580.015, *Application Filing, Processing, and Review*.
- B. Purpose of Periodic Review.** The purpose of the periodic review shall be to determine whether the contracting party or the successor-in-interest has complied in good faith with the terms and conditions of the Development Agreement. The burden of proof shall be on the applicant or contracting party or the successor to demonstrate compliance to the full satisfaction of, and in a manner prescribed by, the City.
- C. Result of Periodic Review.** If, as a result of a periodic review in compliance with this

Section, the Director finds and determines, on the basis of substantial evidence, that the contracting party or the successor-in-interest has not complied in good faith with the terms or conditions of the agreement, the Director shall notify the Commission, which may recommend to the Council that the agreement be terminated or modified.

The procedures for the termination or modification hearing shall comply with Section 17.580.020, *Public Hearings*.

#### **17.580.045 Amendment or Cancellation of Development Agreement**

A Development Agreement may be amended or canceled, in whole or in part, by mutual consent of all parties to the agreement, or their successor-in-interest, in compliance with state law (California Government Code Section 65868), or as set forth in the agreement. The requested amendment or cancellation shall be processed in the same manner specified by this Section for the adoption of a Development Agreement.

#### **17.580.050 Effect of Development Agreement**

- A. Rules, Regulations, and Policies.** Unless otherwise provided by the Development Agreement, the rules, regulations, and official policies governing allowed uses of the land, density, design, improvement, and construction standards and specifications, and Building Code provisions applicable to development of the property subject to a development agreement, are the rules, regulations, and official policies in force at the time of execution of the agreement.
- B. State Law.** In compliance with state law (California Government Code Section 65866), unless specifically provided for in the Development Agreement, the agreement does not prevent the City, in subsequent actions applicable to the property, from applying new rules, regulations, and policies that do not conflict with those rules, regulations, and policies applicable to the property under the Development Agreement. Further, a Development Agreement does not prevent the City from conditionally approving or denying any subsequent development project application on the basis of existing or new rules, regulations, and policies.

#### **17.580.055 Approved Development Agreements**

Development Agreements approved by the Council shall be on file with the City Clerk.

## CHAPTER 17.585 REASONABLE ACCOMMODATIONS

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### Sections:

- 17.585.005 - Purpose
- 17.585.010 - Applicability
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### 17.585.005 Purpose

In compliance with federal and state fair housing laws, it is the City's policy to provide reasonable accommodation in its zoning and land use regulations, policies, and practices when needed to provide an individual with a disability an equal opportunity to use and enjoy a residence or to avoid discrimination on the basis of disability.

### 17.585.010 Applicability

A request for reasonable accommodation may be made by any person with a disability, their representative, or a developer or provider of housing for an individual with a disability. A reasonable accommodation may be approved only for the benefit of individuals with a disability. A request for reasonable accommodation may be granted by the City for any of the following:

- A. The request is made to modify an existing or approved residential structure and/or site.
- B. The request is made in conjunction with an application to construct or modify one or more residential units and/or sites zoned for residential use.

### 17.585.015 Application Filing, Processing and Review

- A. **Filing.** An application for reasonable accommodations shall be completed, filed, and processed in compliance with Chapter 17.500, *Applications, Processing, and Fees*. The application package shall include all information specified in the application, any applicable Division handout, and any additional information required by the Director in order to conduct a thorough review of the proposed project. It is the responsibility of the applicant to establish evidence in support of the findings required by Section 17.585.020, *Findings and Decision*.
- B. **Notice, Hearings, and Administrative Review.** Notice, hearings, and administrative review regarding an application for reasonable accommodations shall be provided in compliance with Chapter 17.630, *Public Hearings and Administrative Review*, and as follows:
  - 1. **Administrative review.** The Director may approve, conditionally approve, or deny applications for reasonable accommodation unless another discretionary permit or approval is required for the project, as specified in Section 17.580.015.B.2.

2. ***Other review authority.*** If the project for which the request for reasonable accommodation is made requires another discretionary permit or approval, then the authority reviewing the discretionary permit may approve, conditionally approve, or deny the application for reasonable accommodation.

### **17.585.020 Findings and Decision**

- A. **Findings.** In considering an application for reasonable accommodations, the reviewing authority may approve the application, with or without conditions, only after making all of the following findings:
  1. The housing, that is the subject of the request for reasonable accommodation will be used by an individual with a disability protected under the fair housing laws
  2. The requested accommodation is necessary to make housing available to an individual with a disability protected under the fair housing laws
  3. The requested accommodation would not impose an undue financial or administrative burden on the City, as defined in fair housing laws and interpretive case law
  4. The requested accommodation would not require a fundamental alteration in the nature of the City's zoning program, as is defined in fair housing laws and interpretive case law. In making these findings, the decision maker may approve alternative reasonable accommodations that provide an equivalent level of benefit to the applicant.
- B. **Decision.** The Director shall record the decision in writing with the findings on which the decision is based. A permit application deemed approved shall be subject to all applicable provisions of this Title, which shall be satisfied by the applicant before a building permit is issued or in the case where a building permit is not required, prior to the establishment of the land use for which the reasonable accommodation was granted.

### **17.585.025 Expiration, Time Extension, Violation, Discontinuance, and Revocation**

- A. **Expiration.** Any reasonable accommodation approved in accordance with the terms of this code shall expire within 24 months from the effective date of approval or at an alternative time specified as a condition of approval unless:
  1. A building permit has been issued and construction has commenced;
  2. A certificate of occupancy has been issued;
  3. The use is established; or
  4. A time extension has been granted.
- B. **Time Extension.** The Director may approve a time extension for a reasonable accommodation for a period or periods not to exceed three years. An application for a time extension shall be made in writing to the Director no less 30 days or more than 90 days prior to the expiration date.



- C. Violation of Terms.** Any reasonable accommodation approved in accordance with the terms of this Title may be revoked if any of the conditions or terms of such reasonable accommodation are violated, or if any law or ordinance is violated in connection therewith.
- D. Discontinuance.** A reasonable accommodation shall lapse if the exercise of rights granted by it is discontinued for 180 consecutive days. If the persons initially occupying a residence vacate, the reasonable accommodation shall remain in effect only if the Director determines that 1) the modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with the Code or 2) the accommodation is to be used by another individual with a disability. The Director may request the applicant or his/her successor in interest to the property to provide documentation that subsequent occupants are persons with disabilities. Failure to provide such documentation within 10 days of the date of a request by the City shall constitute grounds for discontinuance by the City of a previously approved reasonable accommodation.
- E. Revocation.** Procedures for revocation shall be as prescribed by Chapter 17.660, *Revocations and Modifications*.

### **17.585.030 Amendments**

A request for changes in conditions of approval, of a reasonable accommodation, or a change to plans that would affect a condition of approval shall be treated as a new application. The Director may waive the requirement for a new application if the changes are minor, do not involve substantial alterations or addition to the plan or the conditions of approval, and are consistent with the intent of the original approval.

### **17.585.035 Rules While Decision is Pending**

While a request for reasonable accommodations is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.

Reasonable Accommodations

17.585

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